

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

In re: :
WILLIAMS, : Docket #19cv03347
 : 1:19-cv-03347-GBD-JLC
 :
Plaintiff, :
 :
- against - :
 :
THE CITY OF NEW YORK, et al., :
 : New York, New York
Defendants. : January 14, 2020
 :
----- : TELEPHONE CONFERENCE

PROCEEDINGS BEFORE
THE HONORABLE JAMES L. COTT
UNITED STATES DISTRICT COURT MAGISTRATE JUDGE

APPEARANCES:

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None

E X H I B I T S

<u>Exhibit Number</u>	<u>Description</u>	<u>ID</u>	<u>In</u>	<u>Voir Dire</u>
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THE COURT: Good morning, this is Judge Cott, is Mr. Williams on the line?

MR. ALEXANDER WILLIAMS: Yes, sir.

THE COURT: Good morning, Mr. Williams, how are you today?

MR. WILLIAMS: I'm okay, good morning, Your Honor.

THE COURT: Good morning. I'm going to ask the lawyer for the City to state her name for the record here.

MS. SAMANTHA PALLINI: Good morning, Your Honor, Samantha Pallini for the City and the correction officer defendants.

THE COURT: So Mr. Williams, just so you know, I'm going to make a recording of our conference today and I'm then going to ask the City to get a copy of the transcript of this proceeding so that you'll have a record of it, and I'm going to ask them to mail it to you, okay?

MR. WILLIAMS: Okay, sir.

THE COURT: So you don't have to worry about writing dates down or anything like that because everything that we say will be recorded here and we'll probably issue an order, as well, which we'll send to

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you.

MR. WILLIAMS: Okay.

THE COURT: The first thing I want to confirm with you is where you're currently located so we have the proper address for you.

MR. WILLIAMS: I'm in Manhattan Detention Complex.

THE COURT: Okay.

MR. WILLIAMS: 125 White Street, New York, New York 10013.

THE COURT: Okay, great, I think that's where we have the address for you currently. So the purpose of the conference today is two-fold. The first is to set a scheduled for what's called discovery in your case, and the second is to talk about whether there is any possibility your case here can be settled. And I know you have, in addition to this case, some other cases that are pending here in our court. So I'm not familiar with the details of those, but I know from what I understand that they may have some relation, at least in part, to the claims here. So we can talk about them at least as they relate to this case. And while I can't give you any legal advice, I certainly can and plan to talk a little bit about process and

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2 make sure that you understand how things are going to
3 work, because it's very important, I know you're not a
4 lawyer, to understand how court cases in federal court
5 work, okay? So don't be shy about asking me any
6 questions you may have about process.

7 MR. WILLIAMS: Okay.

8 THE COURT: So as I said, the first thing I
9 want to do is set a schedule for discovery. And what I
10 mean by that is in discovery, the parties exchange
11 documents and the parties can serve each other with
12 what are called interrogatories, which means certain
13 questions. And in most cases there are what are called
14 depositions which is testimony that is taken under
15 oath in advance of trial. And my guess is if your case
16 goes forward, the City will likely want to take your
17 deposition under oath, and Ms. Pallini will make
18 arrangements for that.

19 Usually in cases of pro se prisoners, you
20 can't afford the expense of retaining a court
21 reporter, which can be expensive. And so what I
22 usually permit is for you to submit written questions
23 to the lawyer for the City and you can direct them to
24 particular officers or whatever and then they will
25 submit affidavits sworn to responding to the

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particular questions you have.

MR. WILLIAMS: Okay.

THE COURT: Do you follow me so far?

MR. WILLIAMS: Yes, sir.

THE COURT: Great. Okay, so I guess what I want to do first is set a schedule for the discovery period and I'll ask Ms. Pallini first how much time do you think would be appropriate in this case?

MS. PALLINI: I think that 60 to 90 days is fine with us.

THE COURT: Okay, so I'm going to suggest, it's now the middle of January, that we give you until the end of March, March 31, to conclude all discovery as it relates to the claims that are pending in this case.

MR. WILLIAMS: Okay.

THE COURT: And so, Mr. Williams, if there are, you know, questions that you want answers to from particular officers, what I would say you should do is send them directly to Ms. Pallini, you don't need to send them to the Court.

MR. WILLIAMS: Oka.

THE COURT: Generally discovery is not part of the court record, if you will, it's just what's

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exchanged between the parties.

MR. WILLIAMS: Okay.

THE COURT: And then she'll prepare these affidavits with the officers and send them back to you and then you'll have them.

MR. WILLIAMS: Okay.

THE COURT: Now often what happens after the close of discovery is that defendants make what's called a motion for summary judgment, I'm sure, Ms. Pallini, you don't know, as you sit here, whether you would make such a motion, but do you think there's some possibility that you might in this case?

MS. PALLINI: I do, yes.

THE COURT: All right, so what I would suggest we do, just for purposes of completeness, is set a schedule for that motion if you're going to make such a motion.

MS. PALLINI: Okay.

THE COURT: So if we're closing discovery by the end of March, how much time would you want before you made the motion, 30 days, until the end of April?

MS. PALLINI: Yes.

THE COURT: Does that work?

MS. PALLINI: That's great, thank you, Your Honor.

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THE COURT: Okay. So we'll give you until April 30 to make your motion. And Mr. Williams, I'll give you 30 days to respond to the motion, is that okay?

MR. WILLIAMS: Okay.

THE COURT: So we'll say, I'll say June 1, and then if there is any reply, June 15, okay? So that's the schedule if there's going to be motions.

Now, let me lace the subject, well, before I do that, let me just make sure with respect to discovery, do you have any questions, Mr. Williams, at all about anything I've said or about discovery generally, or anything else about the case?

MR. WILLIAMS: Not right now at this point.

MS. PALLINI: Okay. All right then, so we have a discovery schedule and we have a motion schedule. What I want to talk about next, which I always raise at an initial conference, is the possibility of settlement. And settlement is always, you know, important to think about and keep an open mind about, but to be crystal clear, Mr. Williams, I can't make you settle or force you to settle at all, and I'm not raising this to try and force you to settle, I'm just raising it so that you know it's

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2 always an option at least to consider and to discuss
3 with the defendants. And the Court can sometimes play a
4 role in helping the parties, I often have settlement
5 conferences and the like. Have you given any thought
6 at all to settlement of your case?

7 MR. WILLIAMS: I've thought about it, I don't
8 know what the defendants are willing to do, willing to do
9 about, you know, not so much as monetary value but other
10 injunctions that will have to be in play as far as the law
11 library and how they're conducting the mail process here as
12 referencing me in my Court order.

13 THE COURT: I see, well that makes sense to me
14 given the nature of your allegations. So I think what you
15 will want to do probably, and we don't need to dwell on it
16 today, is I think you should perhaps consider writing a
17 letter to Ms. Pallini laying out sort of what the general
18 terms of settlement might be for you as it relates to both
19 your mail, telephone access, law library, et cetera. I
20 understand from something you submitted that you're subject
21 to a lockdown order, correct?

22 MR. WILLIAMS: Yes.

23 THE COURT: And I think further, there is only one
24 page of that order that you attached, so I think Ms. Pallini
25 is going to need to get a copy of that. And I think she'll

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2 probably make an application to the Court for me to sign an
3 order which will give her permission to get a full copy of
4 the lockdown order because I think that will then help
5 her understand better what the conditions you're under
6 right now are and what latitude she might have in
7 order to talk about settlement. Does that make sense
8 to you?

9 MR. WILLIAMS: Yes. I believe that it was two-
10 fold, it's actually two pages but it's the front and
11 back. As far as the lockdown order, see, at the jail
12 I've already been through litigations with them
13 explaining and captains and depts agreed after the
14 lawsuit was already in, that that's why they stopped
15 reading the mail, because I didn't have a mail
16 restriction. I didn't have a problem with how the
17 phone was being used except for when they prevented me
18 from calling 311 after they attacked the grievance
19 officer here, where we couldn't make grievances. So
20 311 was the only other way to contact to make the
21 complaint, to put on record what was going place.

22 So as far as the phone calls I'm all right,
23 I'm able to contact my lawyer and legal people as
24 needed, as long as nobody is not being spiteful and
25 retaliating over my complaints. The main issue was the

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2 reading of my privileged mail, my outgoing mail, which
3 they gave me a response that they was able to do, and
4 then once the super's in you stop, which didn't make
5 sense to me. Because if you're able to do it and
6 you're arguing in the grievance that you're able, or
7 do the interpretation that a lockdown order, we can
8 read it, why stop? When I brought it up to the judge
9 that signed the lockdown order, he explained, he asked
10 the DA did he have any warrant at the jail, the DA
11 said no. We investigated with the warden at the jail,
12 she said he's not on authorized mail watch, he said
13 well then he didn't put a mail section on my Court
14 order for my mail to be addressed.

15 THE COURT: So the main claim you have now is
16 library access, is that the main thing that's still
17 outstanding?

18 MR. WILLIAMS: Yes, the law library access.

19 THE COURT: Okay.

20 MR. WILLIAMS: (indiscernible) law library,
21 the review of the policy that they have, the policy
22 states that we're supposed to be able to go to the law
23 library or have access to, full access to a working
24 processor, which is the LexisNexis kiosk. Now they
25 want me to get on the phone and talk to the legal

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2 coordinator, and all respect to him, he says he can't
3 really help you unless, you know, you get into the
4 specifics of your case which understandable. But how
5 can you do that on a department phone when every phone
6 call is recorded? And I haven't (indiscernible), I'm
7 going back and forth to court on my criminal matter,
8 so I'm uncomfortable discussing that on the phone with
9 them and I prefer to do my own research --

10 THE COURT: I see, okay.

11 MR. WILLIAMS: (continuing) -- the paper and
12 he's not even answering the stuff that I'm trying to
13 research.

14 THE COURT: I see. Okay, well I think that's
15 very helpful for you to have explained everything that
16 you did, for Ms. Pallini's sake I think it gives her a
17 better sense of sort of the scope of your concerns and
18 your complaints. And that will make it easier for her
19 to evaluate in talking to various people, probably the
20 DA's office as well as people at the MDC, what can and
21 can't be done, and then she'll work with you to see if
22 you can resolve your claim. And I know you have other
23 claims and other lawsuits, and that's outside the
24 scope of this case, but I guess what I would just say
25 informally is perhaps there's a way you can consider

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2 talking to Ms. Pallini who I believe represents the
3 City in the other cases, is that right?

4 MS. PALLINI: One of the other cases.

5 THE COURT: One of the other cases. So
6 perhaps you can fold in at least one of the other
7 cases, as well, to see if there's a way to come up
8 with a plan that would satisfy you settlement wise.

9 MR. WILLIAMS: Well, Your Honor, me and Ms.
10 Pallini spoke about three weeks ago about the matter
11 and I was open to it. But the matter is, you know, I
12 now that the Court's don't really like to interject
13 into what the prisons is doing, and that's fine. My
14 issue is when it comes to how they're dealing with
15 certain things and myself, and in reference to my
16 mail, legal aspects, a lot of people in position here
17 at the jail where they're being retaliating over the
18 defendant Dep. Rivera, she was a dep here, she's no
19 longer here. But now she basically had people not let my
20 mail go out, there's things I got going on in the Supreme
21 Court that the clerk is saying they're not getting, where
22 there's a logbook downstairs saying it went out, but the
23 clerk in the office is saying they're not getting it. And
24 the people that's in position to deal with the mail are
25 tampering with the mail. So it constantly keeps me having

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2 to bring, you know, make a complaint or make an 83
3 complaint. It's the hope that once the Courts get involved
4 that it will stop, but it looks like it's not stopping,
5 it's going on right now where certain things I have to
6 send out certified, they're telling me I can't use money
7 out of my account to send certified mail out.

8 THE COURT: Well I, you know, I know it's
9 difficult because you're facing state charges and so
10 there's a State Court that is overseeing all of that,
11 and some of what you're talking about is implicated in
12 the pending criminal case. But at the same time, as
13 you say, you have a right to avail yourself of the
14 resources in the federal court by bringing 1983
15 claims, but there is sort of an intersection between
16 the two, and Ms. Pallini has to kind of sort through
17 that as well.

18 I'm not sure there's anything else for me to
19 say or do with respect to that today. I think you've
20 laid it out very clearly, which has been helpful, and
21 I'm just going to ask Ms. Pallini if you can talk to
22 both the DA's office, as well as the officials at the
23 detention center and see if they can work out
24 something that will be satisfactory to you. And if it
25 is, then perhaps you'll be able to resolve this, and

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2 if not, then your case will continue to go forward.

3 MR. WILLIAMS: Okay.

4 THE COURT: Okay? Is there anything else on
5 your mind that you want to raise today or ask any
6 other questions before we conclude the proceeding?

7 MR. WILLIAMS: Not at all.

8 THE COURT: Ms. Pallini, anything else on your
9 end?

10 MS. PALLINI: Yeah, just one item. Mr.
11 Williams, are you alleging any emotional injuries?
12 Because we sent you some medical releases, so if you
13 are alleging emotional injury, you're going to need to
14 send those back to me, and if you're not, you don't
15 have to worry about it.

16 MR. WILLIAMS: Well, Ms. Pallini, have sent
17 them back to you, you might not have got it because
18 the ladies mailroom is not sending out my mail. It's
19 to the point where I have to have my private attorney
20 come up at times to get my mail, and I pay this guy on
21 an hourly basis. So everything that you're sending me,
22 I've sent back, and if you didn't get it, it's because
23 they not sending out. Now they're not letting me send
24 it certified where I can track it, and that was the
25 whole moral of the lawsuit if you read it, that now

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2 the other lawsuit basically is saying they're stopping
3 me from properly accessing the courts. And if I can't
4 access the courts in a timely manner, certain cases
5 will get dismissed because the correspondence is not
6 there. So it would seem like that I'm ignoring things,
7 and I'm pretty sure you've seen any time when this
8 first started, I'd get anything from the courts, I'd
9 answer right back in a matter of days.

10 MS. PALLINI: So Mr. Williams, what I just
11 want to clarify though is are you alleging emotional,
12 like emotional injuries because of what you're talking
13 about in the lawsuits?

14 MR. WILLIAMS: Yes, ma'am.

15 MS. PALLINI: You are, okay. Do you remember
16 when you sent me those medical releases?

17 MR. WILLIAMS: When you sent it to me, I sent
18 it back in a matter of three days. I never take more
19 than 72 hours to respond to anything.

20 MS. PALLINI: Okay. What I'll do then is I'll
21 double check our offices again and if we don't have a
22 copy, I'll send you another set of releases by the end
23 of this week. And if it helps, I can send you an
24 envelope that's pre-stamped.

25 MR. WILLIAMS: Ms. Pallini, the issue is not

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2 my responding, I'll reiterate it, the Officer Espinosa
3 that's in the mailroom, she's going to listen to Dep.
4 Rivera, and she's not allowing any of my mail to go
5 out. Any of it. Sometimes it gets returned back and
6 sits down there for weeks. So you sending me something
7 for me to send back is not the issue, the issue is the
8 officer that's working the mailroom is not allowing my
9 mail to go out and they're not giving me a written
10 response. If they would give me a written response,
11 then I would be able to attach that, but they've been
12 opening the mail, they see how I'm litigating, they
13 see how I'm trying to understand how to do things, so
14 they don't give me nothing in writing. I could show
15 you numerous (indiscernible) that I've sent to the
16 Bogart building asking for things in writing, numerous
17 grievances, now over 41 of them went out just asking
18 if you're not going to send it out, give me
19 notification as to why my mail is not going out and
20 I'm not receiving.

21 MS. PALLINI: Okay, well what I'm going to do
22 then is I'll talk to DOC, but in the meantime, I'm
23 still going to send you another set and then, if you
24 can, to the best of your ability, send those back to
25 me.

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MR. WILLIAMS: Okay, no problem.

MS. PALLINI: Okay, great, thank you. That's
it, Your Honor.

THE COURT: All right, thank you, Ms. Pallini.
Have a good day, Mr. Williams, thank you for sharing
your thoughts about everything.

MR. WILLIAMS: Okay, thank you.

THE COURT: All right, have a good day.

(Whereupon the matter is adjourned.)

C E R T I F I C A T E

I, Carole Ludwig, certify that the foregoing transcript of proceedings in the United States District Court, Southern District of New York, Williams versus The City of New York, et al., Docket #19cv3347, was prepared using PC-based transcription software and is a true and accurate record of the proceedings.

Signature Carole Ludwig

Carole Ludwig

Date: January 27, 2020